

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Steven Carl Landin,

Debtor.

Chapter 7
Case No. 23-41323

OBJECTION TO CLAIMED EXEMPTIONS

1. Erik A. Ahlgren, the trustee of the bankruptcy estate of the above-named debtor, moves the court for the relief requested below and gives notice of hearing.

2. The court will hold a hearing on this motion at 10:30 am, October 19, 2023 in Courtroom 2C, United States Courthouse, 316 North Robert Street, St Paul MN 55101.

3. Any response to this motion must be filed and served by delivery or mail not later than, Thursday, October 12, 2023 which is seven days before the time set for the hearing (including Saturdays, Sundays, and holidays), UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.

4. This court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Fed. R. Bank. P. 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The case is now pending in this court.

5. This motion arises under 11 U.S.C. § 522 and Fed. R. Bankr. P. 4003 and Local Rule 4003-1(a). This motion is filed under Fed. R. Bankr. P. 9014 and Local Rules

9013-1, 9013-2 and 9013-5. Movant requests relief with respect to debtor's claim of exemption.

6. Debtor claimed an exemption, under 11 U.S.C. § 522(d)(5), of funds that were transferred to Robert Eugene Landin, the Debtor's brother, and kept in his brother's Financial Security Bank account.

7. The Trustee objects to this claim of exemption.

8. Robert Eugene Landin was transferred the funds. On information and belief, Robert Eugene Landin was the sole owner of the Financial Security Bank account in which the funds were deposited. Furthermore, on information and belief, Robert Eugene Landin had dominion and control over the transferred funds and will be considered the transferee of the funds. See *In re Lacina*, 451 B.R. 485 (Bankr. D.Minn., 2011), citing *In re Bauer*, 318 B.R. 697, 700 (Bankr.D.Minn., 2005).

9. A debtor must have an actual ownership interest in an asset to declare it exempt. *In re Horstman*, 276 B.R. 80 (Bankr. E.D. N.C. 2002).

10. Because Robert Eugene Landin was the owner of the bank account in which the funds were deposited, and had exclusive dominion and control over the funds, Robert Eugene Landin will be deemed to be the owner of the funds subject to whatever reclamation right the Debtor could claim. While the Debtor may exempt this contingent reclamation right, the Trustee objects to the Debtor's claim of ownership of the funds and the Debtor's claim of exemption.

Wherefore, the trustee moves the court for an order denying the Debtor's claimed exemption in the funds held in Robert Eugene Landin's Financial Security Bank account under 11 U.S.C. §522(d)(5).

Ahlgren Law Office, PLLC

Dated: September 8, 2023

/e/Erik A. Ahlgren

Erik A. Ahlgren, Attorney #191814

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ATTORNEYS FOR TRUSTEE

Verification.

I, Erik A. Ahlgren, the moving party named in the foregoing notice of hearing and motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Dated: September 8, 2023

Signed: /e/ Erik A. Ahlgren

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ORDER

This case is before the court on the trustee's motion objecting to exempt property.

Based on the motion and the file,

IT IS ORDERED:

The Debtor's claimed exemption in the funds held in Robert Eugene Landin's Financial Security Bank account under 11 U.S.C. §522(d)(5) is denied.

Dated:

Kesha L Tanabe
United States Bankruptcy Judge

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UNSWORN CERTIFICATE OF SERVICE

I, Lisa Ahlgren, declare under penalty of perjury that on September 8, 2023 the following document was served electronically via CM/ECF to those parties requesting electronic notification.

**NOTICE OF MOTION AND MOTION OBJECTING TO EXEMPT
PROPERTY**

And by Mail to:

Steven Carl Landin 13351 Co. Rd 9 NE Spicer MN 56288	
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Executed on: September 8, 2023

Signed: /e/ Lisa Ahlgren